

National Labor Relations Board

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review, the appellants and other parties may, within 14 days after issuance of an order granting review, file briefs with the Board. Such briefs may be reproductions of those previously filed with the regional director and/or other briefs which shall be limited to the issues raised in the request for review. Where review has been granted, the Board will consider the entire record in the light of the grounds relied on for review. Any request for review may be withdrawn with the permission of the Board at any time prior to the issuance of the decision of the Board thereon.

(h) *Transfer*. In any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board, he may, at any time, issue an order, to be effective after the close of the hearing and before decision, transferring the case to the Board for decision. Such an order may be served on the parties upon the record of the hearing.

(i) *Briefs*. If any case is transferred to the Board for decision after the parties have filed briefs with the regional director, the parties may, within such time after service of the order transferring the case as is fixed by the regional director, file with the Board the brief previously filed with the regional director. No further briefs shall be permitted except by special permission of the Board.

(j) *Board action*. Upon transfer of the case to the Board, the Board shall proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to decide the issues referred to it or to review the decision of the regional director and shall direct a secret ballot of the employees or the appropriate action to be taken on impounded ballots of an election already conducted, dismiss the petition, affirm or reverse the regional director's order in whole or in part, or make such other disposition of the matter as it deems appropriate.

(k)(1) *Format of request*. All documents filed with the Board under the provisions of this section shall be filed in eight copies, double spaced, on 8 1/2-by 11-inch paper, and shall be printed or otherwise legibly duplicated. Carbon copies of typewritten materials will

not be accepted. Requests for review, including briefs in support thereof; statements in opposition thereto; and briefs on review shall not exceed 50 pages in length, exclusive of subject index and table of cases and other authorities cited, unless permission to exceed that limit is obtained from the Board by motion, setting forth the reasons therefor, filed not less than 5 days, including Saturdays, Sundays, and holidays, prior to the date the document is due. Where any brief filed pursuant to this section exceeds 20 pages, it shall contain a subject index with page authorities cited.

(2) *Service of copies of request*. The party filing with the Board a request for review, a statement in opposition to a request for review, or a brief on review shall serve a copy thereof on the other parties and shall file a copy with the regional director. A statement of such service shall be filed with the Board together with the document.

(3) *Extensions*. Requests for extensions of time to file requests for review, statements in opposition to a request for review, or briefs, as permitted by this section, shall be filed with the Board or the regional director, as the case may be. The party filing the request for an extension of time shall serve a copy thereof on the other parties and, if filed with the Board, on the regional director. A statement of such service shall be filed with the document.

[76 FR 80185, Dec. 22, 2011]

§ 102.68 Record; what constitutes; transmission to Board.

The record in a proceeding conducted pursuant to the foregoing section shall consist of: the petition, notice of hearing with affidavit of service thereof, motions, rulings, orders, the stenographic report of the hearing and of any oral argument before the regional director, stipulations, exhibits, affidavits of service, and any briefs or other legal memoranda submitted by the parties to the regional director or to the Board, and the decision of the regional director, if any. Immediately upon issuance by the regional director of an order transferring the case to the Board, or upon issuance of an order granting a request for review by the

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Board, the regional director shall transmit the record to the Board.

[46 FR 45922, Sept. 15, 1981]

§ 102.69 Election procedure; tally of ballots; objections; certification by the regional director; requests for review of directions of elections; hearings; hearing officer reports on objections and challenges; exceptions to hearing officer reports; requests for review of regional director decisions in stipulated or directed elections.

(a) *Election procedure; tally; objections.* Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the regional director in whose Region the proceeding is pending. All elections shall be by secret ballot. Whenever two or more labor organizations are included as choices in an election, either participant may, upon its prompt request to and approval thereof by the regional director, whose decision shall be final, have its name removed from the ballot: *Provided, however,* That in a proceeding involving an employer-filed petition or a petition for decertification the labor organization certified, currently recognized, or found to be seeking recognition may not have its name removed from the ballot without giving timely notice in writing to all parties and the regional director, disclaiming any representation interest among the employees in the unit. A pre-election conference may be held at which the parties may check the list of voters and attempt to resolve any questions of eligibility or inclusions in the unit. When the election is conducted manually, any party may be represented by observers of its own selection, subject to such limitations as the regional director may prescribe. Any party and Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the conclusion of the election the ballots will be counted and a tally of ballots prepared and immediately made available to the parties. Within 7 days after the tally of ballots has been prepared, any party may file with the regional director an original and five copies of objections to the conduct of the election or to conduct af-

fecting the results of the election which shall contain a short statement of the reasons therefor. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. A person filing objections by facsimile pursuant to §102.114(f) shall also file an original for the Agency's records, but failure to do so shall not affect the validity of the filing if otherwise proper. In addition, extra copies need not be filed if the filing is by facsimile pursuant to §102.114(f). The Regional Director will cause a copy of the objections to be served on each of the other parties to the proceeding. Within 7 days after the filing of objections, or such additional time as the Regional Director may allow, the party filing objections shall furnish to the Regional Director the evidence available to it to support the objections.

(b) *Requests for review of directions of elections.* If the election has been conducted pursuant to §102.67, any party may file a request for review of the decision and direction of election with the Board in Washington, DC. In the absence of election objections or potentially determinative challenges, the request for review of the decision and direction of election shall be filed within 14 days after the tally of ballots has been prepared. In a case involving election objections or potentially determinative challenges, the request for review shall be filed within 14 days after the regional director's decision on challenged ballots, on objections, or on both, and may be combined with a request for review of that decision as provided in paragraph (d)(3) of this section. *Provided, however,* That if the hearing on objections and determinative challenges has been consolidated with an unfair labor practice proceeding before an administrative law judge, the request for review of the decision and direction of election shall be filed within 14 days after issuance of the administrative law judge's decision. The procedures for such request for review shall be the same as set forth in §102.67(c) through (g), and (k), insofar as applicable. If no request for review is filed, the decision and direction of election is final and shall have the same effect as if issued by the